

**IN THE UNITED DEFENDANTSS DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**RICHARD JORDAN and
RICKY CHASE**

PLAINTIFFS

VS.

CIVIL ACTION NO.: 3:15CV295HTW-LRA

**PELICIA D. HALL, Commissioner,
Mississippi Department of Corrections;
MARSHAL TURNER, Superintendent,
Mississippi Defendants Penitentiary; THE
MISSISSIPPI DEFENDANTS EXECUTIONER,
And UNKNOWN EXECUTIONERS**

DEFENDANTS

**ROBERT SIMON; THOMAS EDWIN
LODEN, JR. and ROGER ERIC THORSON**

INTERVENORS

ORDER

This matter is before the Court on consideration of the Plaintiffs' Unopposed Motion for Continuance of Trial Setting [171]. This case is currently set for trial on August 27, 2018. By this Motion, the Plaintiffs seek a continuance of the trial date until the United States Supreme Court issues its ruling in the pending case of *Bucklew v. Precythe*, No. 17-8152. In that case, the petitioner challenged Missouri's plan to execute him by injection of a lethal dose of pentobarbital, on grounds that it violated the Eighth Amendment. The Eighth Circuit agreed with the District Court that Bucklew had failed to present adequate proof that his proposed alternative method would significantly reduce a substantial risk of severe pain.

In granting *certiorari*, the Supreme Court added another question to those presented in the petition and asked the parties to brief and argue: "Whether Petitioner met his burden under *Glossip v. Gross*, 576 US. ___ (2015) to prove what procedures would be used to administer his proposed alternative method of execution, the severity of pain likely to be produced, and how

they compare to the State's method of execution." The parties in this case agree that this is "one of the most heavily contested issues that the Court will be required to decide." The Court believes that it would not be an effective use of judicial resources to try this case while the question presented in *Bucklew* was pending.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. The Plaintiffs' Unopposed Motion for Continuance of Trial Setting [Doc. #171] is hereby **granted**, and this case is stayed until the date on which the Supreme Court's decision in *Bucklew v. Precythe*, No. 17-8151, becomes final. The parties are directed to notify the Court within thirty days of that event.
2. The Clerk of the Court is hereby directed to administratively close this case until the parties notify the Court of the final judgment in *Bucklew v. Precythe*.

IT IS SO ORDERED, this the 26th day of July, 2018.

s/ HENRY T. WINGATE

Henry T. Wingate
District Judge